IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.936 OF 2005

Nilesh L. Parekh ...Applicant.

V/s.

The State of Maharashtra & Anr....Respondents.

Mr.Durgesh Khanapurkar i/b M/s. Prakash & Co. for the Applicant.
Mr.R.S.Khadapkar, the A.P.P. for the State.

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : 18th August, 2005.
P.C.:

1. Heard the learned advocate for the Applicant and the learned Additional Public Prosecutor for the State.

2. The Applicant has prayed for quashing of the complaint that is case no.2267/Misc. of 2001, which is pending before the Learned Metropolitan Magistrate at XXth Court, Mazgaon, Mumbai. The said complaint is under section 138 read with 141 of the Negotiable Instruments Act. In the said complaint, process came to be issued against the Applicant under section 138 read with 141 of the Negotiable Instruments Act. The learned advocate for the Applicant has submitted that the learned Magistrate erred in issuing the process against the Applicant and the said process deserves to

be recalled or quashed. He has further submitted that if the said process is recalled or quashed, the complaint and the proceedings relating thereto would come to an end.

3. However, for the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, I am of the opinion that the Applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the Applicant states that the necessary revision would be preferred within a period of three weeks from today. In view of this statement, the Trial Court shall not proceed with the trial for three weeks.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the

concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Application is disposed of.

(V.K.TAHILRAMANI,J.)